

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4220

IN THE MATTER OF:

Served December 7, 1993

Proposed Rulemaking Amending RULES)
OF PRACTICE AND PROCEDURE AND)
REGULATIONS, Regulation No. 58-13)
and Reduction of Filing Fee)

Case No. MP-93-59

Pursuant to the Compact, Titles I & II, Article IV, Section 4(a) and Article XIII, Section 3, Commission Rule No. 9-02, and Commission Regulation No. 67, the Commission hereby initiates a proposed rulemaking for the purpose of considering an amendment to Commission Regulation No. 58-13, Other Forms of Security for the Protection of the Public, and consistent with that amendment a limited reduction of the self-insurance application fee.

The Compact, Title II, Article XI, Section 7(f), mandates in pertinent part that "[a] person applying for or holding a Certificate of Authority shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require" (emphasis added). Regulation Nos. 58-01 through 58-12 set forth the Commission's requirements regarding insurance policies and certificates of insurance. Regulation No. 58-13 establishes the standard for approval of other forms of security such as self-insurance:

The Commission will consider the application of a carrier to provide other forms of security for the protection of the public. Applicant must furnish evidence establishing to the satisfaction of the Commission the carrier's ability to satisfy its obligations for bodily injury, death, and property damage liability without adversely affecting the stability of the carrier or the public interest.

The fee for filing a self-insurance application is \$3,000, which is designed to defray all out-of-pocket costs incurred by the Commission in connection with its examination of the carrier's qualifications and consideration of any conditions which may be appropriate as a precedent to approval.

Peter Pan Bus Lines, Inc. (Peter Pan), has proposed that the Commission adopt a regulation consistent with provisions assertedly found in a number of state passenger carrier laws permitting carriers to file evidence of federal self-insurance authority as proof of their qualification for state self-insurance authority. Peter Pan cites the following statute as one example:

Any motor carrier who has qualified as a self-insurer in accordance with the rules and regulations of the Interstate Commerce Commission governing motor carriers

engaged in interstate or foreign commerce shall be prima facie deemed qualified as a self-insurer in the State of Arkansas.

ARK. CODE ANN. § 23-13-227(d).

The Commission has some experience with such a rule. Our approval of the self-insurance application of Greyhound Lines, Inc. (GLI), in 1989 was based on GLI's showing that the Interstate Commerce Commission (ICC) had approved GLI's self-insurance application under the Interstate Commerce Act. GLI filed its application here three months after the ICC issued its decision, and we noted "it would be unnecessary and wasteful of [GLI's] and this Commission's resources to plow the same field again so soon."¹ Additional inquiry on our part also would be wasteful where an applicant demonstrates a satisfactory history of complying with ICC self-insurance conditions. The amendment proposed for consideration herein would formalize the approach taken in the GLI proceeding and permit examination of an applicant's ICC compliance record.

The Commission is considering adding the following sentence at the end of the current text of Regulation No. 58-13:

Proof of approval by the Interstate Commerce Commission for self-insurance under the Interstate Commerce Act shall be deemed satisfactory evidence of qualification for self-insurance under the Compact, provided that as a prerequisite to a finding of qualification under the Compact, an applicant self-insured under the Interstate Commerce Act may be required to furnish evidence of complete and continuous compliance with all conditions imposed by the Interstate Commerce Commission in connection therewith.

The Commission also is considering reducing to \$100 the filing fee for applications relying on ICC approval.

It is relevant to note that only one carrier currently would benefit from this new rule: Peter Pan. Of the few passenger carriers granted self-insurance authority by the ICC, only Peter Pan and GLI have WMATC certificates. Of course, the paramount issue here is whether a finding by the ICC that a carrier qualifies for self-insurance authorization under the Interstate Commerce Act should be deemed dispositive of that carrier's qualification for self-insurance under the Compact.

Interested parties will be given 30 days from the date of this order to submit comments on the proposed amendment and waiver.

¹ In re Greyhound Lines, Inc., No. AP-89-26, Order No. 3418 (Oct. 4, 1989).

THEREFORE, IT IS ORDERED:

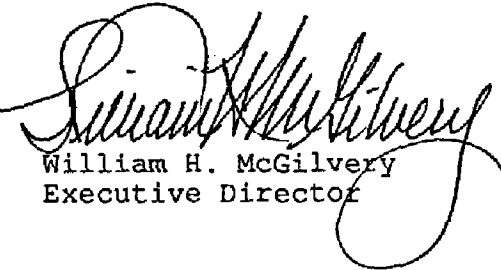
1. That a rulemaking is hereby proposed for the purpose of considering an amendment to the Commission's Rules of Practice and Procedure and Regulations, Regulation No. 58-13, as herein described.

2. That the Commission will consider reducing to \$100 the filing fee for self-insurance applications filed under the rule proposed herein, if adopted.

3. That the Commission staff shall publish a single notice of this proceeding in a newspaper of general circulation in the Metropolitan District, no later than Monday, December 13, 1993.

4. That any person desiring to comment on the matters proposed for consideration in this proceeding shall file an original and four copies of such comment at the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than Thursday, January 6, 1994.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS DAVENPORT, SCHIFTER, AND SHANNON:



William H. McGilvery
Executive Director